

**AMENDMENT OFFERED BY MR. McCRERY
TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE**

Page 7, strike lines 16 through 18, and insert the following:

1 “(B) construction, engineering, or architec-
2 tural services performed in the United States
3 for construction projects in the United States.

Page 8, line 18, strike “a” and all that follows through line 20 and insert “property leased, licensed, or rented by the taxpayer for use by any related person.”.

Page 9, after line 4, insert the following:

4 (b) SPECIAL RULE RELATING TO ELECTION TO
5 TREAT CUTTING OF TIMBER AS A SALE OR EXCHANGE.—
6 In the case of a corporation, any election under section
7 631(a) of the Internal Revenue Code of 1986 made for
8 a taxable year ending on or before the date of the enact-
9 ment of this Act may be revoked by the taxpayer for any
10 taxable year ending after such date. For purposes of deter-
11 mining whether such taxpayer may make a further elec-
12 tion under such section, such election (and any revocation
13 under this section) shall not be taken into account.

Page 9, line 5, strike “(b)” and insert “(c)”.



Page 72, line 15, insert after “2006” the following:

1 “if not less than 50 percent of the total compensation re-
2 lating to the production of such property is compensation
3 for services performed in the United States by actors, pro-
4 duction personnel, directors, and producers”.

Page 105, after line 21, insert the following (and conform the table of contents accordingly):

5 **SEC. 1091. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**
6 **LATED INVESTMENT COMPANIES.**

7 (a) TREATMENT OF CERTAIN DIVIDENDS.—

8 (1) NONRESIDENT ALIEN INDIVIDUALS.—Sec-
9 tion 871 (relating to tax on nonresident alien indi-
10 viduals) is amended by redesignating subsection (k)
11 as subsection (l) and by inserting after subsection (j)
12 the following new subsection:

13 “(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REG-
14 ULATED INVESTMENT COMPANIES.—

15 “(1) INTEREST-RELATED DIVIDENDS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), no tax shall be imposed
18 under paragraph (1)(A) of subsection (a) on
19 any interest-related dividend received from a
20 regulated investment company.



1 “(B) EXCEPTIONS.—Subparagraph (A)
2 shall not apply—

3 “(i) to any interest-related dividend
4 received from a regulated investment com-
5 pany by a person to the extent such divi-
6 dend is attributable to interest (other than
7 interest described in subparagraph (E) (i)
8 or (iii)) received by such company on in-
9 debtedness issued by such person or by any
10 corporation or partnership with respect to
11 which such person is a 10-percent share-
12 holder,

13 “(ii) to any interest-related dividend
14 with respect to stock of a regulated invest-
15 ment company unless the person who
16 would otherwise be required to deduct and
17 withhold tax from such dividend under
18 chapter 3 receives a statement (which
19 meets requirements similar to the require-
20 ments of subsection (h)(5)) that the bene-
21 ficial owner of such stock is not a United
22 States person, and

23 “(iii) to any interest-related dividend
24 paid to any person within a foreign coun-
25 try (or any interest-related dividend pay-



1 ment addressed to, or for the account of,
2 persons within such foreign country) dur-
3 ing any period described in subsection
4 (h)(6) with respect to such country.

5 Clause (iii) shall not apply to any dividend with
6 respect to any stock which was acquired on or
7 before the date of the publication of the Sec-
8 retary's determination under subsection (h)(6).

9 “(C) INTEREST-RELATED DIVIDEND.—For
10 purposes of this paragraph, an interest-related
11 dividend is any dividend (or part thereof) which
12 is designated by the regulated investment com-
13 pany as an interest-related dividend in a writ-
14 ten notice mailed to its shareholders not later
15 than 60 days after the close of its taxable year.
16 If the aggregate amount so designated with re-
17 spect to a taxable year of the company (includ-
18 ing amounts so designated with respect to divi-
19 dends paid after the close of the taxable year
20 described in section 855) is greater than the
21 qualified net interest income of the company for
22 such taxable year, the portion of each distribu-
23 tion which shall be an interest-related dividend
24 shall be only that portion of the amounts so
25 designated which such qualified net interest in-



1 come bears to the aggregate amount so des-
2 ignated.

3 “(D) QUALIFIED NET INTEREST IN-
4 COME.—For purposes of subparagraph (C), the
5 term ‘qualified net interest income’ means the
6 qualified interest income of the regulated in-
7 vestment company reduced by the deductions
8 properly allocable to such income.

9 “(E) QUALIFIED INTEREST INCOME.—For
10 purposes of subparagraph (D), the term ‘quali-
11 fied interest income’ means the sum of the fol-
12 lowing amounts derived by the regulated invest-
13 ment company from sources within the United
14 States:

15 “(i) Any amount includible in gross
16 income as original issue discount (within
17 the meaning of section 1273) on an obliga-
18 tion payable 183 days or less from the date
19 of original issue (without regard to the pe-
20 riod held by the company).

21 “(ii) Any interest includible in gross
22 income (including amounts recognized as
23 ordinary income in respect of original issue
24 discount or market discount or acquisition
25 discount under part V of subchapter P and



1 such other amounts as regulations may
2 provide) on an obligation which is in reg-
3 istered form; except that this clause shall
4 not apply to—

5 “(I) any interest on an obligation
6 issued by a corporation or partnership
7 if the regulated investment company
8 is a 10-percent shareholder in such
9 corporation or partnership, and

10 “(II) any interest which is treat-
11 ed as not being portfolio interest
12 under the rules of subsection (h)(4).

13 “(iii) Any interest referred to in sub-
14 section (i)(2)(A) (without regard to the
15 trade or business of the regulated invest-
16 ment company).

17 “(iv) Any interest-related dividend in-
18 cludable in gross income with respect to
19 stock of another regulated investment com-
20 pany.

21 “(F) 10-PERCENT SHAREHOLDER.—For
22 purposes of this paragraph, the term ‘10-per-
23 cent shareholder’ has the meaning given such
24 term by subsection (h)(3)(B).

25 “(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—



1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), no tax shall be imposed
3 under paragraph (1)(A) of subsection (a) on
4 any short-term capital gain dividend received
5 from a regulated investment company.

6 “(B) EXCEPTION FOR ALIENS TAXABLE
7 UNDER SUBSECTION (a)(2).—Subparagraph (A)
8 shall not apply in the case of any nonresident
9 alien individual subject to tax under subsection
10 (a)(2).

11 “(C) SHORT-TERM CAPITAL GAIN DIVI-
12 DEND.—For purposes of this paragraph, a
13 short-term capital gain dividend is any dividend
14 (or part thereof) which is designated by the reg-
15 ulated investment company as a short-term cap-
16 ital gain dividend in a written notice mailed to
17 its shareholders not later than 60 days after the
18 close of its taxable year. If the aggregate
19 amount so designated with respect to a taxable
20 year of the company (including amounts so des-
21 ignated with respect to dividends paid after the
22 close of the taxable year described in section
23 855) is greater than the qualified short-term
24 gain of the company for such taxable year, the
25 portion of each distribution which shall be a



1 short-term capital gain dividend shall be only
2 that portion of the amounts so designated
3 which such qualified short-term gain bears to
4 the aggregate amount so designated.

5 “(D) QUALIFIED SHORT-TERM GAIN.—For
6 purposes of subparagraph (C), the term ‘quali-
7 fied short-term gain’ means the excess of the
8 net short-term capital gain of the regulated in-
9 vestment company for the taxable year over the
10 net long-term capital loss (if any) of such com-
11 pany for such taxable year. For purposes of this
12 subparagraph—

13 “(i) the net short-term capital gain of
14 the regulated investment company shall be
15 computed by treating any short-term cap-
16 ital gain dividend includible in gross in-
17 come with respect to stock of another regu-
18 lated investment company as a short-term
19 capital gain, and

20 “(ii) the excess of the net short-term
21 capital gain for a taxable year over the net
22 long-term capital loss for a taxable year (to
23 which an election under section 4982(e)(4)
24 does not apply) shall be determined with-
25 out regard to any net capital loss or net



1 short-term capital loss attributable to
2 transactions after October 31 of such year,
3 and any such net capital loss or net short-
4 term capital loss shall be treated as arising
5 on the 1st day of the next taxable year.

6 To the extent provided in regulations, clause
7 (ii) shall apply also for purposes of computing
8 the taxable income of the regulated investment
9 company.”

10 (2) FOREIGN CORPORATIONS.—Section 881 (re-
11 lating to tax on income of foreign corporations not
12 connected with United States business) is amended
13 by redesignating subsection (e) as subsection (f) and
14 by inserting after subsection (d) the following new
15 subsection:

16 “(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS
17 OF REGULATED INVESTMENT COMPANIES.—

18 “(1) INTEREST-RELATED DIVIDENDS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), no tax shall be imposed
21 under paragraph (1) of subsection (a) on any
22 interest-related dividend (as defined in section
23 871(k)(1)) received from a regulated investment
24 company.



1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply—

3 “(i) to any dividend referred to in sec-
4 tion 871(k)(1)(B), and

5 “(ii) to any interest-related dividend
6 received by a controlled foreign corporation
7 (within the meaning of section 957(a)) to
8 the extent such dividend is attributable to
9 interest received by the regulated invest-
10 ment company from a person who is a re-
11 lated person (within the meaning of section
12 864(d)(4)) with respect to such controlled
13 foreign corporation.

14 “(C) TREATMENT OF DIVIDENDS RE-
15 CEIVED BY CONTROLLED FOREIGN CORPORA-
16 TIONS.—The rules of subsection (c)(5)(A) shall
17 apply to any interest-related dividend received
18 by a controlled foreign corporation (within the
19 meaning of section 957(a)) to the extent such
20 dividend is attributable to interest received by
21 the regulated investment company which is de-
22 scribed in clause (ii) of section 871(k)(1)(E)
23 (and not described in clause (i) or (iii) of such
24 section).



1 “(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—
2 No tax shall be imposed under paragraph (1) of sub-
3 section (a) on any short-term capital gain dividend
4 (as defined in section 871(k)(2)) received from a
5 regulated investment company.”

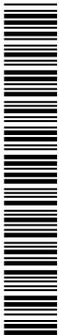
6 (3) WITHHOLDING TAXES.—

7 (A) Section 1441(c) (relating to excep-
8 tions) is amended by adding at the end the fol-
9 lowing new paragraph:

10 “(12) CERTAIN DIVIDENDS RECEIVED FROM
11 REGULATED INVESTMENT COMPANIES.—

12 “(A) IN GENERAL.—No tax shall be re-
13 quired to be deducted and withheld under sub-
14 section (a) from any amount exempt from the
15 tax imposed by section 871(a)(1)(A) by reason
16 of section 871(k).

17 “(B) SPECIAL RULE.—For purposes of
18 subparagraph (A), clause (i) of section
19 871(k)(1)(B) shall not apply to any dividend
20 unless the regulated investment company knows
21 that such dividend is a dividend referred to in
22 such clause. A similar rule shall apply with re-
23 spect to the exception contained in section
24 871(k)(2)(B).”



1 (B) Section 1442(a) (relating to with-
2 holding of tax on foreign corporations) is
3 amended—

4 (i) by striking “and the reference in
5 section 1441(c)(10)” and inserting “the
6 reference in section 1441(c)(10)”, and

7 (ii) by inserting before the period at
8 the end the following: “, and the references
9 in section 1441(c)(12) to sections 871(a)
10 and 871(k) shall be treated as referring to
11 sections 881(a) and 881(e) (except that for
12 purposes of applying subparagraph (A) of
13 section 1441(c)(12), as so modified, clause
14 (ii) of section 881(e)(1)(B) shall not apply
15 to any dividend unless the regulated invest-
16 ment company knows that such dividend is
17 a dividend referred to in such clause)”.

18 (b) ESTATE TAX TREATMENT OF INTEREST IN CER-
19 TAIN REGULATED INVESTMENT COMPANIES.—Section
20 2105 (relating to property without the United States for
21 estate tax purposes) is amended by adding at the end the
22 following new subsection:

23 “(d) STOCK IN A RIC.—

24 “(1) IN GENERAL.—For purposes of this sub-
25 chapter, stock in a regulated investment company



1 (as defined in section 851) owned by a nonresident
2 not a citizen of the United States shall not be
3 deemed property within the United States in the
4 proportion that, at the end of the quarter of such in-
5 vestment company's taxable year immediately pre-
6 ceding a decedent's date of death (or at such other
7 time as the Secretary may designate in regulations),
8 the assets of the investment company that were
9 qualifying assets with respect to the decedent bore
10 to the total assets of the investment company.

11 “(2) QUALIFYING ASSETS.—For purposes of
12 this subsection, qualifying assets with respect to a
13 decedent are assets that, if owned directly by the de-
14 cedent, would have been—

15 “(A) amounts, deposits, or debt obligations
16 described in subsection (b) of this section,

17 “(B) debt obligations described in the last
18 sentence of section 2104(c), or

19 “(C) other property not within the United
20 States.”

21 (c) TREATMENT OF REGULATED INVESTMENT COM-
22 PANIES UNDER SECTION 897.—

23 (1) Paragraph (1) of section 897(h) is amended
24 by striking “REIT” each place it appears and in-
25 serting “qualified investment entity”.



1 (2) Paragraphs (2) and (3) of section 897(h)
2 are amended to read as follows:

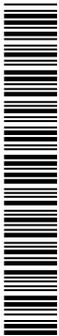
3 “(2) SALE OF STOCK IN DOMESTICALLY CON-
4 TROLLED ENTITY NOT TAXED.—The term ‘United
5 States real property interest’ does not include any
6 interest in a domestically controlled qualified invest-
7 ment entity.

8 “(3) DISTRIBUTIONS BY DOMESTICALLY CON-
9 TROLLED QUALIFIED INVESTMENT ENTITIES.—In
10 the case of a domestically controlled qualified invest-
11 ment entity, rules similar to the rules of subsection
12 (d) shall apply to the foreign ownership percentage
13 of any gain.”

14 (3) Subparagraphs (A) and (B) of section
15 897(h)(4) are amended to read as follows:

16 “(A) QUALIFIED INVESTMENT ENTITY.—
17 The term ‘qualified investment entity’ means
18 any real estate investment trust and any regu-
19 lated investment company.

20 “(B) DOMESTICALLY CONTROLLED.—The
21 term ‘domestically controlled qualified invest-
22 ment entity’ means any qualified investment en-
23 tity in which at all times during the testing pe-
24 riod less than 50 percent in value of the stock



1 was held directly or indirectly by foreign per-
2 sons.”

3 (4) Subparagraphs (C) and (D) of section
4 897(h)(4) are each amended by striking “REIT”
5 and inserting “qualified investment entity”.

6 (5) The subsection heading for subsection (h) of
7 section 897 is amended by striking “REITS” and
8 inserting “CERTAIN INVESTMENT ENTITIES”.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amendments made by
12 this section shall apply to dividends with respect to
13 taxable years of regulated investment companies be-
14 ginning after the date of the enactment of this Act.

15 (2) ESTATE TAX TREATMENT.—The amend-
16 ment made by subsection (b) shall apply to estates
17 of decedents dying after the date of the enactment
18 of this Act.

19 (3) CERTAIN OTHER PROVISIONS.—The amend-
20 ments made by subsection (c) (other than paragraph
21 (1) thereof) shall take effect on the date of the en-
22 actment of this Act.

